UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

      Plaintiff,

      v.   Case No. 05-CR-194

GERARDO R. HERNANDEZ-PASCUAL,

      Defendant.

**ORDER ON DEFENDANT'S MOTION FOR RECONSIDERATION OF
BOND ORDER PENDING TRIAL**

On August 1, 2005, this court issued an order releasing the defendant, Gerardo R. Hernandez-Pascual ("Pascual"), on conditions. One of those conditions is that the defendant post $5,000.00 cash bond.

On August 2, 2005, i.e., subsequent to the defendant's bond/detention hearing (the government sought the defendant's detention without bond), the defendant filed a motion for reconsideration of the court's August 1, 2005 release order. In support of his motion Pascual (through his counsel) presents that "one day following the hearing, [counsel] received a faxed correspondence from Assistant United States Attorney Elizabeth Blackwood. The letter discloses that Agent Maltby erred in his testimony. It appears that there is no evidence that Mr. Hernandez-Pascual has ever been denied admission into the United States." (Mot. at 2.)

I have now considered the information set forth above and conclude that, even in the face of such information, the amount of bond ordered should not be changed. Simply stated, Pascual is in this country illegally and I have found probable cause to believe that he violated the provisions of

Title 8 U.S.C. § 1325(a)(2). Although the offense with which he has been charged is only a misdemeanor (indeed, a petty offense), Pascual has incentive to leave the United States rather than face trial. I remain satisfied that the amount of bond imposed is, along with the other conditions, reasonably necessary to assure his appearance at trial. Consequently, the defendant's motion for reconsideration will be denied.

NOW THEREFORE IT IS ORDERED that the defendant's motion for reconsideration be and hereby is **DENIED**.

SO ORDERED this <u>8th</u> day of August 2005, at Milwaukee, Wisconsin.

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<u>William E. Callahan, Jr.</u>
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge

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